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FAX TRANSMITTAL FORM

To: U. S. Patent and Trademark Office

From: Frank T. Brzozowski, small entity inventor

Invention: Configurable eyewear system

Application No.: 10/648,508

Art Unit: 2873

Examiner: Ms. Kimberly Cooper

Fax No. 571-273-4339

Pages: 20

Date Sent: December 6, 2007

Kindly file the response dated 11-30-07 with the \$525.00 extension fee. Patricia Wenger withdrew from prosecuting the action. Please forward all correspondence to Frank T. Brzozowski.

Dec 06 07 11:13a

Frank Brzozowski

215-425-7672

p.2

USPTO

11/30/2007 8:38:41 PM

PAGE 1/001 Fax Server

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FAX TRANSMISSION FORM

To: U.S. Patent and Trademark Office

From: Frank T. Brzozowski, small entity inventor

Invention: Configurable eyewear system

Application No.: 10560,598

Art Unit: 2873

Examiner: Huy Kim Mai 571-272-2334  
Ricky L. Mack 571-272-2333

Fax No. 571-273-8300

Pages: 18

Date Sent: November 30, 2007

Kindly file the Response to the 7/30/07 Office Action and accept the \$525.00 payment for a time extension. Patricia Wenger withdrew from prosecuting the action and all mailings are to be sent to me, Frank Brzozowski.

Page 1/19 \* RCVD AT 11/30/2007 8:33:05 PM [Eastern Standard Time] \* SVR:USPTO-EFAXF-6/1 \* DNIS:2734339 \* CSID:215 425 7672 \* DURATION (mm-ss):08-48

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**BEFORE THE UNITED STATES  
PATENT AND TRADEMARK OFFICE**

Application No.: 10/648,508  
Application filed: August 25, 2003  
Application Title: Configurable Eyewear  
Applicant: Frank T. Brzozowski, small entity inventor  
Representative: Frank T. Brzozowski, pro-se; Attorney Patricia  
Wenger is removed from these actions  
Primary Examiner: Huy Mai  
LJ Examiner: Ms. Cooper  
Art Unit: 2873  
Date: November 30, 2007

**AMENDMENT OF NON-COMPLIANT AMENDMENT  
37 CFR 1.121**

To the Commissioner of Patents and Trademarks  
Washington, District of Columbia

Sir:

Attorney Patricia Wenger is not any longer involved in the prosecuting and proceedings of this patent and she will not be the ongoing attorney of record.. All correspondence and inquiries are to be directed to the inventor Frank T. Brzozowski. This instruction was usurped and disregarded with Ms. Cooper's July 30, 2007 Notice being mailed to the wrong address. Do not mail any more correspondence and time sensitive documents to Patricia Wenger; mail all documents to Frank T. Brzozowski, 2357 East Dauphin Street, Philadelphia, PA 19125, 215-425-7672; frank@brzozowski.com.

Mr. Brzozowski, the small entity inventor, contends that he was wrongfully disrespected by the USPTO when he did not personally receive any mail, phone calls or e-mails relating to the problems in this action prior to yesterday. The documents

dated July 30, 2007 were not mailed to the inventor who is now prosecuting this action. Mr. Brzozowski also complains that Ms. Cooper, who was not involved in the action until the response was faxed, subjected him to a surprise appearance that placed the patent rights in jeopardy.

In the file wrapper for the Configurable eyewear invention, the July 30, 2007 Notice of Non-Compliant Amendment (37 CFR 1.121), Exhibit "A," consists of four (4) pages, but only two pages had pertinent information and instructions: page 3 was a blank Continuation Sheet (PTOL-324) (04-06) and page 4 was another blank Continuation Sheet (PTOL-324). The Claims in the attachments are submitted to cure this procedural and administrative defect, and are not designed to be oppressive against the inventor and to deprive the constitutional rights of Article 8 Section 8 of the U.S. Constitution. Moreover, the Configurable eyewear patent has valid claims and the merits of the new and useful invention are patentable.

On Friday November 30, 2007, the primary examiner Huy Mai and the inventor, discussed the status of the patent; Mr. Mai stated that the patent was abandoned. The inventor, Frank T. Brzozowski, contends that it is unconstitutional to deprive him of his rights, since the patent was very close to having a Notice of Allowance issued by having Claims 58-73 allowed and by combining the merits of Claims 37, 57 and 79 to become an independent claim. The inventor contends that Mr. Huy abused his discretion and has made errors of law in depriving the patent rights prior to his last office action dated March 21, 2007.

Basically, the inventor grieves that from the first filing the patent application has many new, novel and useful components that are unique, with concepts that teach the construction of a new product not previously invented. Due to Mr. Mai's abuse of discretion and failure to look at the overall new industrial eyewear products, the inventor had most of his rights oppressed and the various new and unique embodiments disregarded. Mr. Mai fails to cite any specific patent that consists of new and useful configurable eyewear that performs many commercial and industrial tasks that include the merits within claim 46, to wit:

"a group of headwear consisting . . . welder's eyewear, motorcycle rider eyewear, safety eyewear, skydiving eyewear, airplane pilot eyewear, deep sea diving eyewear, gas mask eyewear, hazardous materials eyewear, 3-d glasses, costumes, masks, goggles, hoods, UV tanning eyewear, racecar driver eyewear, astronaut eyewear, sports eyewear, hoods and helmets."

None of the prior art referred by Mr. Mai state the above uses in claim 46. The examiner takes a very narrow scope of the merits of the new invention and applies it to a limited range of eyeglasses and sunglasses, which are subsets of the many industrial uses of the configurable eyewear invention. The overpriced original patent application, began with 45 claims and several embodiments, has been brutalized dissected to about 17 claims and one embodiment, an emaciated dwarf skeleton of the original patent. The small entity inventor grieves that this patent application has become very expensive, that he has not even be refunded for the overpaid claims, yet, he is being subjected to additional unnecessary costs; and now being unconstitutionally deprived of the patent that should have been issued by now.

**The previous response is being incorporated with a correction that claims are being cancelled WITHOUT prejudice.**

"The Configurable Eyewear System evolved from protective safety glasses with bifocals that were annoying by causing the eyes to get out of focus while working with small wires and other tiny telephone equipment. Claim 46 is the most important claim, it is a new and useful improvement from all of the prior art, since the patent is intended for members of the workforce, and it also could be used with common eyeglasses. The USPTO has failed to produce a patent with all of the functions in claim 46 and none of the prior patents cited document all of the following uses: sunglasses, welder's eyewear, motorcycle rider eyewear, safety eyewear, skydiving eyewear, airplane pilot eyewear, deep sea diving eyewear, gas mask eyewear, hazardous materials eyewear, 3-d glasses, costumes, masks, goggles, hoods, UV tanning eyewear, racecar driver eyewear, astronaut eyewear, sports eyewear, hoods and helmets. Karasawa, Erhard, Lin, Bailey, Archambault, Tassier, and Hirano made inventions that seem to be intended for the common everyday use as eyeglasses and not as a vital function in an unusual or adverse environment that uses specialized headwear. Hirano's invention, JP 7-159733, is challenged as being defective and drastically different: the lenses switch from the right eye to the left eye when they are inverted.

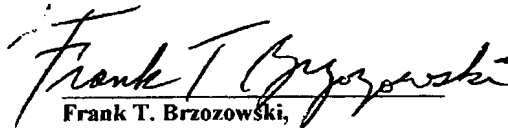
Under Patricia Wenger's prosecution, it was elected to pursue the circular lens configurable eyewear system. The claims that are not being used in this immediate action are intended to be used in a divisional and/or future continuation-in-part patent that are intended to be filed. The claims that are not going to be used in this patent are to be

cancelled without prejudice so that they could be cited in the upcoming patent filings."

Mr. Mai limits his decision to reject the patent on the basis of one type of embodiment, eyeglasses and sunglasses, which are casual apparel and which could become cumbersome in industry when the conventional protective headwear is now being used with eyeglasses and sunglasses. Mr. Mai abuses his authority by rejecting the merits of claim 46 and failing to produce specific patents that have the functions of the configurable eyewear with headwear having the industrial and commercial uses in claim 46.

Claims 1-85 are enclosed. Compliance with #13, Claims 37, 57 and 79 have been merged into an independent claim. 77 in Claims 80 and Claims 81 have been changed to 79.

Submitted by:

  
Frank T. Brzozowski,  
Small entity inventor

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Enclosure

Enc.